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May 24, 2023

**VIA ECF**

Hon. Jennifer L. Rochon  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

**Re: *Rovio Entertainment Corp. v. Ace Air Inflatable Decorations Store, et al.***  
**Case No. 22-cv-4139 (JLR)**  
**Status Letter**

Dear Judge Rochon,

We represent Plaintiff Rovio Entertainment Corporation (“Plaintiff”) in the above-referenced action (the “Action”).<sup>1</sup> On May 17, 2023, the Court entered an Order directing Plaintiff to update the Court as to the status of this case and proposing next steps in light of the summary order issued in *Smart Study Co. LTD. v. Acuteye-US*, No. 22-1810 (2d Cir. Aug. 18, 2022) (hereinafter “*Smart Study Appeal*”). (Dkt. 42). Accordingly, Plaintiff respectfully submits the instant letter.

In the *Smart Study Appeal*, on May 3, 2023, the Second Circuit dismissed the appeal for lack of jurisdiction finding that this Court’s July 21, 2022 Order is neither a “final decision” under Section 1291(a)(1). (Second Circuit Dkt. 99-1). In the *Smart Study Co., Ltd. v. Acuteye-US*, Case No. 21-cv-5860 (GHW) (S.D.N.Y. 2021) (hereinafter “*Smart Study*”), on August 17, 2022, prior to Plaintiff filing the *Smart Study Appeal*, this Court entered an Order directing plaintiff to show cause as to why this case should not be dismissed (“August 17, 2022 Order”). (*Smart Study* Dkt. 101). On May 9, 2023, Smart Study wrote a letter to Judge Woods requesting to respond to August 17, 2022 Order. (*Smart Study* Dkt. 104). By Order dated May 11, 2023, Judge Woods denied, without prejudice, Plaintiff’s request as the Second Circuit had not yet issued the Mandate. (*Smart Study* Dkt. 102). Earlier today, May 24, 2023, the Second Circuit issued the Mandate of the USCA. (*Smart Study* Dkt. 106). Thereafter, Smart Study filed a renewed request to respond to the August 17, 2022 Order. (*Smart Study* Dkt. 107). Smart Study’s intention is to re-file the appeal once Judge Woods issues a final decision provided that his opinion remains the same.

In this Action, on October 5, 2022, Plaintiff filed its Motion for Default Judgment, which seeks default judgment against all Defendants remaining in this Action. (Dkts. 29-32). In light of Smart

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<sup>1</sup> Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary in the Complaint.

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Study's intention to re-file the appeal in *Smart Study*, Plaintiff respectfully requests that the stay in this Action remain in place until after Smart Study re-files the appeal and the Second Circuit issues a decision.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

**EPSTEIN DRANGEL LLP**

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